

1 52ND ANNUAL MEETING OF THE
2 REPUBLICAN RIVER COMPACT ADMINISTRATION
3
4
5

6
7 TUESDAY, OCTOBER 16, 2012
8 7:50 A.M.
9

10 ORIGINAL
11
12
13

14 The above-entitled meeting was taken at the
15 C.L. Hoover Opera House, 135 West 7th Street,
16 Junction City, Kansas, before Coleen F. Boxberger,
17 Registered Professional Reporter and Certified Court
18 Reporter for the State of Kansas.
19
20
21
22
23
24
25

1
2 REPUBLICAN RIVER COMPACT ADMINISTRATION:
3

4 For Kansas:

5 David Barfield, P.E., Commissioner

6 Burke W. Griggs, Esquire

7 Christopher M. Grunewald, Esquire

8 Scott Ross, P.E.
9

10 For Colorado:

11 Dick Wolfe, P.E., Commissioner

12 Scott Steinbrecher, Esquire

13 Michael Sullivan, P.E., Deputy State Engineer

14 Peter J. Ampe, Esquire
15

16 For Nebraska:

17 Brian P. Dunnigan, P.E., Commissioner

18 Justin Lavene, Esquire

19 Jim Schneider, P.E.

20 Tom O'Connor, P.E.
21
22
23
24
25

1 introduce those at the front table here. And then
2 following that we'll just -- we're a small enough
3 group here we'll -- we'll just go around the room
4 and ask you to introduce yourself and sort of your
5 interest in the Republican River Basin, if that's
6 okay.

7 So with me is -- on my right is Scott Ross.
8 He is our commissioner for northwest Kansas and our
9 representative on the engineering committee. And to
10 my left is Burke Griggs, counsel for myself.

11 MR. WOLFE: Good morning. There we go.
12 First, I would like to thank Kansas for hosting the
13 meeting this year in Junction City. Appreciate
14 that. I'm Dick Wolfe, Colorado State Engineer and
15 Commissioner for Colorado. To my left is Mike
16 Sullivan, Deputy State Engineer. And to my far left
17 is Scott Steinbrecher, Assist Attorney General with
18 the Colorado Attorney General's Office in our
19 interstate litigation unit.

20 MR. BARFIELD: Brian?

21 MR. DUNNIGAN: Thank you, Chairman Barfield.
22 My name is Brian Dunnigan, and I am the Director of
23 the Nebraska Department of Natural Resources. To my
24 immediate left is Justin Lavene from the Attorney
25 General's office. To my right is Jim Schneider,

1 Deputy Director for the Department of Natural
2 Resources. And to Jim's right is Tom O'Connor, head
3 of the Eastern Field Offices.

4 MR. BARFIELD: Thank you. Why don't we start
5 -- Brad, why don't we start with you, and we'll move
6 around the room.

7 MR. EDGERTON: I'm Brad Edgerton. I'm
8 manager of the Frenchman-Cambridge Irrigation
9 District, Cambridge, Nebraska.

10 MR. THOMPSON: Good morning. I'm Aaron
11 Thompson with the Bureau of Reclamation's
12 Nebraska/Kansas office. We have projects in all
13 three states.

14 MR. BARFIELD: Just a second. Are you
15 getting this?

16 COURT REPORTER: It's very hard to hear.

17 MR. BARFIELD: Can somebody grab the mic and
18 let's just do a roving mic so we can make a record.

19 MR. SCOTT: Good morning. I'm Craig Scott
20 with the Bureau of Reclamation out of McCook,
21 Nebraska. I'm the operations manager for our office
22 there up in McCook.

23 MR. BRADLEY: Jesse Bradley with the Nebraska
24 Department of Natural Resources in the Integrated
25 Water Management Division.

1 MR. KOESTER: Paul Koester, Groundwater
2 Modeler for the Department of Natural Resources of
3 Nebraska.

4 MR. KEELER: Dave Keeler with the Division of
5 Water Resources, Colorado.

6 MR. GUENTHNER: Scott Guenthner. I'm with
7 the Bureau of Reclamation. I'm Reclamation's
8 representative on the conservation committee.

9 MR. KOELLIKER: Jim Koelliker, Kansas State
10 University, retired. I'm with the Conservation
11 Commission.

12 MR. LAMBRECHT: Jason Lambrecht with the U.S.
13 Geological Survey, the Nebraska Water Science
14 Center.

15 MR. PERKINS: Sam Perkins, Kansas Division of
16 Water Resources.

17 MR. SCHREÜDER: Willem Schreüder with
18 Principia Mathematica.

19 MR. SABLE: Chris Beightel, Kansas Division
20 of Water Resources.

21 MR. GRUNEWALD: Chris Grunewald, Assistant
22 Attorney General, Kansas Attorney General's office.

23 MS. JURICEK: Chelsea Juricek. I'm in the
24 Stockton Field Office, Kansas Division of Water.

25 MR. ASKREN: I'm Kent Askren with Kansas Farm

1 Bureau.

2 MR. BIERY: Galen Biery, general manager of
3 the Kansas Rural Water District No. 1. And our
4 concern is with Milford Reservoir.

5 MR. CLEMENTS: Mike Clements, general manager
6 of Rural Republic NRD in Alma, Nebraska.

7 MR. SMITH: Dan Smith, manager of Middle
8 Republic NRD in Curtis, Nebraska.

9 MR. AMPE: Peter Ampe, Hill & Robbins,
10 counsel for Republican River Water Conservation
11 District.

12 MR. CAO: Hongsheng Cao, Kansas Division of
13 Water Resources.

14 MS. DANIEL: Deb Daniel. I'm general manager
15 of the Republican River Water Conservation District
16 in Colorado.

17 MR. CORYELL: Dennis Coryell. I'm President
18 of the Republican River Water Conservation District,
19 Colorado.

20 MR. DOWELL: Jack Dowell, representative for
21 RRWCD Board, Colorado.

22 MR. HERMAN: Harlan Herman of Inavale,
23 Nebraska; farmer and rancher.

24 MR. DELKA: Mike Delka, manager of the
25 Bostwick Irrigation District in Nebraska.

1 MR. RILEY: Tom Riley with the Flatwater
2 Group.

3 MR. KRACMAN: David Kracman with the
4 Flatwater Group.

5 MR. GROFF: Mark Groff, Flatwater Group.

6 MR. WHITE: Doug White, outside counsel for
7 Nebraska.

8 MR. WILMOTH: Tom Wilmoth, outside counsel
9 for Nebraska.

10 MR. JOHNSON: Blake Johnson with the Attorney
11 General's Office in Nebraska.

12 MR. FANNING: Jasper Fanning, Nebraska.

13 MR. JENKINS: Nate Jenkins, Upper Republican
14 NRD.

15 MR. BARFIELD: Okay. Thank you very much.
16 Second order of business on the agenda is the
17 adoption of the agenda. I would entertain any
18 changes to the agenda.

19 MR. WOLFE: I would just indicate to the
20 chairman that under Agenda Item 9, I think C through
21 F at least, and maybe G, are status updates. Is
22 that correct, based on discussion from yesterday?

23 MR. BARFIELD: Yes, it is. That's my
24 understanding. Just for those present, yesterday
25 the Compact Administration held a work session where

1 we had a discussion on a number of items of business
2 for the administration to sort of -- so that helped
3 today's meeting go smoother as well. And we did
4 agree that all of items C through G would be more in
5 the form of status updates on these various matters
6 as opposed to items that were -- that would require
7 action at this particular meeting. So we'll just
8 note that each of those are status items.

9 MR. WOLFE: Thank you.

10 MR. BARFIELD: Anything else?

11 MR. DUNNIGAN: Chairman Barfield, I would
12 like to note that on Agenda Item 9-B -- just for
13 clarification -- had "action" on Nebraska's proposed
14 plan.

15 MR. BARFIELD: Very good. Okay. All right.
16 So with the insertion of the word "action" on 9-B,
17 and "status of" on 9-C through G, we'll adopt the
18 agenda as --

19 MR. DUNNIGAN: I have one other note for
20 discussion.

21 MR. BARFIELD: I'm sorry.

22 MR. DUNNIGAN: I believe that on Item 9-A we
23 might want to take the word "action" off. I believe
24 that would be discussed and assigned later.

25 MR. BARFIELD: Okay. Okay. Why don't we say

1 "discussion of engineering report and assignments."
2 Would that be okay?

3 MR. DUNNIGAN: That's great.

4 MR. BARFIELD: So "discussion of engineering
5 committee report and assignments." And then we can
6 figure out what to do with it at that juncture. I
7 guess I should -- so would somebody move adoption of
8 the adjusted agenda?

9 MR. WOLFE: I move that we approve the
10 amended agenda.

11 MR. BARFIELD: All right.

12 MR. DUNNIGAN: Second.

13 MR. BARFIELD: All right. Any discussion?

14 (Pause.)

15 MR. BARFIELD: All in favor of approving the
16 amended agenda say aye.

17 MR. WOLFE: Aye.

18 MR. DUNNIGAN: Aye.

19 MR. BARFIELD: Aye. Any opposed?

20 (Pause.)

21 MR. BARFIELD: All right. Agenda Item 3 is a
22 discussion on the status of the report and
23 transcript of the 2011 annual meeting, just to sort
24 of tie up what we did last year. I guess I'll --
25 just from our discussion yesterday, I would note

1 that a transcript has been prepared in a draft of
2 the annual meeting. A summary has also been
3 prepared by the State of Colorado, which hosted the
4 meeting yesterday. The states have not completed
5 their review of those documents at this juncture.

6 And so, as we'll talk about as the meeting
7 progresses, we anticipate having a special meeting
8 of this Administration in the relatively near
9 future. And I think it's our hope to deal with this
10 item and others that we'll get to subsequently. So
11 any additional discussion on that?

12 (Pause.)

13 MR. BARFIELD: Okay. Agenda Item 4 is Status
14 of Previous Annual Special Meeting Reports and
15 Transcripts. We actually -- again, as was discussed
16 yesterday in our work session, we've got annual
17 reports, special meeting reports and transcripts
18 going back to 2007 that have not been finalized and
19 approved. Those are in the various states. Some
20 are very close to being ready to move and others
21 need more work.

22 Again, I think we committed ourselves last
23 time to -- or yesterday afternoon to working with
24 those and seek to have them reviewed and ready to be
25 acted upon in our special meeting. So unless we

1 need to say more about it at this juncture, I'll
2 leave it at that.

3 (Pause.)

4 CHAIRMAN BARFIELD: Okay. Very good. Agenda
5 Item 5 is the opportunity for each of the states to
6 provide a report of -- of significant items of
7 interest to the basin and it's administration, which
8 generally I'll go first and provide a report for
9 Kansas. 2011; I'll speak first about the 2011
10 conditions and some of the responses to that that
11 we've seen in our state, and then the 2012 water
12 supply conditions and other activities.

13 2011 was a very dry year, as I reported last
14 year, for the southern half of our state. Very
15 significant heat, very dry conditions. It created
16 some extraordinary demands for water and led to
17 something that I mentioned last year that we called
18 Drought Emergency Term Permits to allow
19 appropriators to essentially complete the irrigation
20 season rather than have a failed crop and reduce
21 their 2012 use according to that which they used
22 beyond their authorized amount in 2011. We had
23 quite a demand for those. There were actually 2350
24 approximately permits issued before the year was
25 out.

1 Fall and winter conditions last year did not
2 improve, and producers began to come to us and sort
3 of ask what can we do about next year. And so it
4 began a process of sort of working through that
5 issue of how to provide multi-year flexibility,
6 without allowing increased use of our water rights.
7 Kansas statute has something called a Multi-Year
8 Flex Account Program. It was a program that was not
9 used before this sort of episode came up, because it
10 required a 10 percent conservation factor and was
11 fairly restricted in terms of how the multi-year
12 would -- the five-year amount was computed.

13 The Division worked with producers and
14 legislators to draft legislation to amend the
15 Multi-Year Flex Account Program to -- to make it
16 more attractive to producers to provide multiple
17 options for determining the five-year allocation,
18 and yet make it very clear in creating up that
19 multi-year flexibility that in the long term use did
20 not decrease.

21 So that was passed as Senate Bill 272 in this
22 -- just this past legislative session. And we've
23 received over 600 applications for Multi-Year Flex
24 Accounts for 2012 around the state. Scott, you
25 received something under a hundred in northwest

1 Kansas; is that right?

2 MR. ROSS: Yes.

3 MR. BARFIELD: Although not all of those were
4 in the Republican Basin. Last year I also reported
5 on the governor's initiative related to the Ogallala
6 aquifer. He held a summit in Colby last summer.
7 We've, you know, continued to see additional
8 follow-up, I guess, of the governor's initiative.
9 One of the most significant, again, was in a
10 legislative bill.

11 In this case it was Senate Bill 310 that
12 amended our Groundwater Management District Act in
13 some pretty significant ways to provide another
14 method for us to deal with water well declines and
15 over-appropriation in parts of western Kansas in
16 particular. Essentially the law allowed groundwater
17 management districts to initiate the consideration
18 of something called local enhanced management areas
19 or what we call LEMA's is the acronym. The
20 stakeholders developed a plan to address severe
21 water resource problems in a portion of groundwater
22 management districts and customize what are called
23 in the statute "Corrective Controlled Provisions" to
24 address those water resource concerns.

25 The bill provides a -- once that plan is

1 developed, a hearing process by which in two
2 hearings -- so the plan is sort of at its root, does
3 it meet the statutory requirement in such areas?
4 And then should the public -- should the Correct
5 Control Provision be adopted? Is it in the public
6 interest? Does it address the water resource
7 concern?

8 So this was passed in Senate Bill 310. We
9 are working with Groundwater Management District
10 No. 4 in northwest Kansas, which covers the
11 Republican River Basin and tributaries to the south,
12 on a LEMA in Sheridan County within the Republican
13 River Basin. They developed a plan and submitted it
14 pursuant to statute.

15 The first of two hearings was held in
16 September and found that the statutory requirements
17 for that first phase's considerations were met. A
18 second hearing will be held on November 28th on
19 whether the plan should be adopted and it's controls
20 enacted through order of the chief engineer. That
21 plan basically would set out an allocation of 55
22 inches for five years for that LEMA area, which is a
23 20 percent reduction from recent historic use.

24 The governor's also continued to engage on
25 this issue. He recently went to western Kansas and

1 met in the area of Western Kansas Unit No. 1 and
2 Southwest Kansas Unit No. 2 and encouraged them to
3 use this tool. And we're actively sort of following
4 up with interested individuals to help them sort of
5 shape what they believe they can and should do. So
6 those were the most significant legislative bills in
7 this last session.

8 2012 water supply conditions have continued
9 to be very dry. This time, instead of principally
10 the southern half of our state, it's pretty much
11 been state-wide dry and hot conditions, which has
12 led to some very significant water administration
13 state-wide. I think 2012 might be a record year for
14 water administration when everything is said and
15 done. And that includes a significant amount of
16 administration pursuant to our minimum desirable
17 stream flow provision of the Kansas Water
18 Appropriation Act. In the Republic Basin we began
19 administering minimum desired stream flows in late
20 summer and continue to this date as a result of the
21 very low water supplies that occurred in that time
22 frame.

23 Just a couple other matters. We continue to
24 be in compliance with all of the requirements of the
25 final settlement stipulation in the Compact.

1 Northwest Kansas is fully metered, and we continue
2 to complete our normal compliance enforcement
3 activities in the basin.

4 One last thing, I guess. Just a couple words
5 on the status of the litigation that is ongoing
6 related to compliance, Nebraska's compliance with
7 the Republican River Compact. That -- essentially
8 that litigation is we had a trial in Portland, Maine
9 during the month of August and briefing on the
10 matter was completed. With that, I guess I'll
11 complete my report. I guess I'll turn it over to
12 Colorado for your report.

13 MR. WOLFE: Thank you, Chairman Barfield.
14 I'll keep my report brief, and certainly want to
15 recognize there's a lot of efforts underway in the
16 basin in all three states for Compact compliance.
17 And certainly of utmost importance for Colorado is
18 our achieving Compact compliance. And I want to
19 thank our staff that's here today and the staff back
20 in Colorado who's worked diligently with the
21 Republican River Water Conservation District and the
22 water users in the basin for over eight years now on
23 efforts to try to achieve Compact compliance, not
24 which the least is the Compact compliance pipeline,
25 which the district has now completed and is

1 operational and awaiting a decision by the Compact
2 Administration on its approval of the Compact
3 compliance pipeline to allow that pipeline to be
4 operational and complete the last leg of many
5 efforts for Colorado to achieve Compact compliance.

6 And we certainly couldn't have gotten to this
7 point without all of their efforts and the water
8 users in the basin. They've expended on the order
9 of \$100 million to date to achieve Compact
10 compliance. And these are really the last steps in
11 that process to get Colorado into compliance. And
12 so I want to thank everyone for their -- all of
13 their diligent efforts and certainly the water users
14 in the basin to step up and find a local solution to
15 the local problem.

16 The other component of that that was
17 important to allow Colorado to achieve Compact
18 compliance is in regard to the Bonny Reservoir on
19 the South Fork. I made a decision to issue an order
20 to the Bureau of Reclamation last September to drain
21 Bonny Reservoir. And I want to recognize the Bureau
22 for their efforts in working with Colorado on that.
23 They have been very cooperative in working through
24 those issues that come up in regard to draining
25 Bonny Reservoir for the first time since it's

1 completion back in the 1950's.

2 And as of to date -- today it is drained. It
3 has been since the early part of the year. And at
4 this stage Colorado intends to keep Bonny Reservoir
5 in a drained condition until we're at a point that
6 we're in compliance and can make a decision in the
7 future on whether additional storage can occur in
8 Bonny Reservoir. And with that, I think that
9 completes my report.

10 MR. BARFIELD: Thank you. Brian from
11 Colorado -- or Nebraska. Excuse me.

12 MR. DUNNIGAN: Thank you, Chairman Barfield.
13 I would also like to extend my thanks to you and
14 your staff for hosting the RRCA meeting and the
15 hospitality you have provided. The State of
16 Nebraska is in compliance with the Republican River
17 Compact. Using current accounting procedures,
18 Nebraska has had positive balances during 2007,
19 2008, 2009, 2010, and 2011, which has led to
20 compliance with the five-year average. Based on
21 preliminary estimates Nebraska will again be in
22 compliance for the five-year period ending in 2012.

23 That said, 2012 saw drought conditions once
24 again creep into the basin. Such conditions will
25 obviously place stress on basin water supplies.

1 However, any concerns that may have carried over
2 from the basin and the last drought about Nebraska's
3 ability to comply with the Compact should not exist.

4 Nebraska has taken significant steps to
5 bolster its water management, including the
6 development of third-generation integrated
7 management plans which contain forecasting
8 provisions and accompanying controls that ensure
9 Nebraska will be able to take sufficient actions in
10 a timely manner. These forecasting procedures are a
11 significant advancement over what was available to
12 Nebraska during the previous drought.

13 These procedures incorporate detailed
14 analysis and triggers that rely on conservative
15 dry-year projections to proactively identify the
16 potential for noncompliance, thereby providing the
17 necessary information to proactively reduce
18 consumption to levels necessary to ensure Compact
19 compliance. These triggers go well beyond the
20 requirements imposed by the Compact and Final
21 Settlement Stipulations, because Nebraska knows that
22 future noncompliance is not an option.

23 Nebraska also understands that it must
24 continue to manage long-term groundwater depletions
25 and has made consistent efforts to achieve this

1 result. Aside from the forecasting provisions, the
2 most recent integrated management plans also contain
3 provisions to continue to reduce groundwater pumping
4 volumes and conduct evaluations annually to
5 determine if additional long-term pumping
6 adjustments are necessary.

7 The basin NRD's continue to demonstrate an
8 ongoing commitment to compliance through the
9 adoption of rules to support full implementation of
10 their most recent integrated management plans. All
11 of the integrated management plans adopted by the
12 basin NRD's contain controls that would require,
13 when necessary, shut-down of wells in rapid response
14 areas during Compact Call years as part of
15 compliance efforts, as well as provisions to
16 administer stream flows in a manner that will ensure
17 Nebraska maintains compliance.

18 The Department and Tri-Basin NRD also
19 finalized their integrated management plan, which
20 became effective on July 1st, 2012. While not the
21 necessary component to ensure Compact compliance,
22 this plan will, among other objectives, require the
23 NRD to limit groundwater depletions to the same
24 volume as groundwater imports. Nebraska continues
25 to invest in long-term solutions for reducing

1 consumptive use in the basin.

2 State and local NRD financial resources
3 continue to be invested in CREP and AWEF programs.
4 These programs have worked to provide permanent and
5 temporary reductions in irrigated plans throughout
6 the basin. Nebraska also continues to invest in the
7 science necessary to support future sound management
8 decisions. The Department has been pursuing efforts
9 in coordination with the Nebraska Republican River
10 Management Districts Association to develop modeling
11 tools to support the evaluation of potential
12 conjunctive management options throughout the basin.

13 The Department looks forward to the
14 opportunity to work with the other states through
15 the WaterSMART Basin Studies Program to utilize
16 these tools and believes that such collaboration to
17 evaluate system improvements and operational
18 improvements are critical as recognized in Section
19 4-E of the final settlement stipulation.

20 In closing, I reiterate that Nebraska will
21 continue to comply with the Republican River
22 Compact. The state will continue to proactively
23 evaluate the conditions within the basin and make
24 necessary adjustments to remain in compliance.
25 We'll continue to work with all stakeholders in the

1 basin, including the other states, the NRD's, the
2 Bureau of Reclamation, and water users as we look to
3 enhance management efforts in the future. I will
4 now have Tom O'Connor give a report on water
5 administration activities in Nebraska for calendar
6 year 2011.

7 MR. O'CONNOR: Thank you, Brian. This is a
8 report of water administration activities for the
9 Republican River Basin in Nebraska for the calendar
10 year 2011. In January 19th letters were sent to all
11 non-federal irrigators reminding them that the 2010
12 water use reports must be filed with the Cambridge
13 field office or they would be closed for irrigation
14 in 2011.

15 February 28th: 17 closing notices were
16 issued to irrigators who failed to submit their
17 required annual water use reports. These water
18 users were not allowed to divert water during the
19 2011 calendar year. February 28th: Also 38 opening
20 notices were issued to storage permits that had
21 previously been closed. Also on February 28th, 11
22 opening notices were issued to irrigators that were
23 closed due to failing to return their 2009 water use
24 reports.

25 May 17th: 937 regulating notices were issued

1 to irrigators in the Republican River Basin
2 notifying them of the amount of water that they
3 could legally divert. June 1st: One notice of
4 public schedule was sent to an irrigator notifying
5 them of the amount they could legally divert.

6 June 28th: Three regulating notices were
7 sent to water users above the Meeker-Driftwood Canal
8 notifying them that they were not allowed to divert
9 water in excess of the amount of their appropriation
10 without prior consent. Also on June 28th, 24
11 closing notices were issued to water users above the
12 Meeker-Driftwood Canal notifying them to not divert
13 water until further notice.

14 On July 20th nine closing notices were issued
15 to water users above the Meeker-Driftwood Canal
16 notifying them not to divert water until further
17 notice. On August 4th 33 opening notices were
18 issued to water users above Meeker-Driftwood Canal
19 notifying them that they were not allowed to divert
20 water within their permitted amount. Also on
21 August 4th one regulating notice was sent to an
22 irrigator notifying them of the amount they could
23 legally divert.

24 On September 12th 22 closing notices were
25 sent to storage permit-holders in the Republican

1 Basin. And on December 1st water use reports were
2 mailed to all nonfederal irrigation permits in the
3 Republican River Basin.

4 MR. DUNNIGAN: That concludes Nebraska's
5 report.

6 MR. BARFIELD: Thank you, Mr. Dunnigan. And
7 with that we will move on to the federal reports.
8 Okay. And I see you're heading to the microphone.
9 I would ask you to remind the court reporter of your
10 name when you issue the Bureau's report.

11 MR. THOMPSON: Good morning. I'm Aaron
12 Thompson, the area manager for the Bureau of
13 Reclamation's Nebraska-Kansas office. I've provided
14 each one of you a copy of the Reclamation's annual
15 report to the Republican River Compact
16 Administration. If you need additional copies, I
17 have some. And if the audience would like any
18 copies that I have left over, please see me after
19 I'm done speaking.

20 The report includes a summary of 2011
21 reservoir operations and farm deliveries. It also
22 includes operations up through August of 2012. I'm
23 just going to highlight a few items in the report,
24 and then I'll let you come after the report with any
25 questions you may have or any detail you would like

1 to see further.

2 As was highlighted by Commissioner Wolfe's
3 summary, the State of Colorado requested the
4 releases of remaining storage water in Bonny
5 Reservoir. Those releases began in late 2011 and
6 were completed in 2012. Construction at Red Willow
7 Dam is -- did begin in 2011. The schedule for
8 completion is November of 2013. We are working with
9 the contractor. Reclamation is working with SEMA,
10 the contractor, for the construction at Red Willow
11 for an early completion date. As of today we have
12 approximately 80 percent of the geonet has been
13 placed on the back face of the dam.

14 Harlan County Reservoir ended 2011 in flood
15 pool. Flood releases were made during the first
16 five months in 2012. Water-short year was not in
17 effect in 2012. Based on the end of September 2012
18 reservoir storage, water-short year administration
19 will be in effect in 2013.

20 WaterSMART Activities. I'm pleased to
21 announce that the Republican River Basin was
22 selected for basin study in 2012. In addition to
23 that WaterSMART funding we have quite a few other
24 projects in the Republican River Basin.
25 Approximately 2.15 million under the WaterSMART

1 program. Those include irrigation districts, such
2 as Frenchman-Cambridge, Kansas, Nebraska, Bostwick,
3 and also the Upper Republican NRD.

4 In addition to those, my area office has
5 funded \$300,000 in cost-share grants to the area
6 office funding. And that concludes a summary of my
7 report.

8 MR. BARFIELD: All right. Are there any
9 questions for Aaron?

10 (Pause.)

11 MR. BARFIELD: Thank you, Aaron. Next is --
12 the next item on the agenda is a report from the
13 U.S. Army Corps of Engineers. I did not hear
14 anybody from the Corps to indicate they were in
15 attendance. So is that the case?

16 (Pause.)

17 MR. BARFIELD: Seeing no one step up to the
18 mic, we will assume there's no report from the --
19 from the Corps of Engineers. So next would be the
20 U.S. Geological survey. Jason, if you would like to
21 get up. Again, we're passing some materials around
22 the front table here.

23 MR. LAMBRECHT: I'm Jason Lambrecht. I'm
24 with the U.S. Geological Survey of the Nebraska
25 Water Sciences Center. I'm the associate director

1 of hydrologic data in Nebraska. Normally my report
2 -- I guess this is my first time. It's in the form
3 of PowerPoint, so you're all spared today. This is
4 better anyway.

5 MR. BARFIELD: Actually there's a way to
6 accommodate that. If you need, they can actually
7 move these screens.

8 MR. LAMBRECHT: That's just fine. It looks
9 like a lot of the previous year since there are
10 pictures and stuff in it. No cartoons or anything.
11 I'll just highlight some of the activities from the
12 past year. What I will be reporting on is the water
13 2011 river flows. We haven't analyzed 2012, or
14 completed that analyzation yet. Those numbers
15 should be coming out in -- around Christmas 2012
16 should be finalized.

17 Of note we have 16 river sites that we
18 operate or work to record or both in conjunction
19 with the DNR, the Nebraska DNR. These are all
20 Nebraska stream gauges by the way. Ten of those
21 stream gauges are supported by the NSIP Program,
22 which is the National Streamflow Information
23 Program. That's money directly allotted from
24 Congress to operate stream gauges. In those ten
25 there are two sites of note.

1 First of all, all the sites that I will be
2 talking about have roughly 50 to 79 years of record.
3 And of note, that the first ten that are -- like I
4 said, were funded by the NSIP Program. All of them
5 are within -- they all showed a very dry year in
6 2011, except for one. All of them were in -- 50 to
7 80 years of record, they all showed they were in the
8 -- probably the lowest of the 16 years in 2011,
9 except for the -- with the exception of Red Willow
10 Creek near Red Willow, Nebraska, which actually was
11 188 percent above the annual -- or the average mean
12 flow -- average annual mean flow. I believe this
13 was due to some draining of Hugh Butler Lake -- I
14 don't recall -- during the water year. The lowest
15 site, that was actually the lowest in 71 years of
16 record, was Rock Creek near Park. And I believe in
17 2012 they will actually be a little bit lower yet.

18 The next three sites are supported by the
19 USGS and other state agencies, such as -- well, and
20 also by the Army Corps. Again, they're within the
21 top 5 to 15 in the low list of those in water year
22 2011. That's kind of a highlight overall. And then
23 looking at the final three as well, which are sites
24 that are actually operated by the Nebraska DNR and
25 by the U.S.G.S., is responsible for web display,

1 review, and publishing of the record. Those sites
2 as well are the top 15 of the lowest lows of average
3 annual low flows.

4 I don't have a record for the Republican
5 River in Guide Rock, Nebraska. I believe that the
6 site itself, according to spreadsheets, was
7 discontinued in 2008. And the DNR may have moved --
8 moved to that site in the past year. I'm not aware.
9 So -- and I'll be speaking with the DNR later on.

10 That concludes my report, except for I just
11 want to bring up that the U.S. Geological Survey has
12 a product called WaterWatch. And this particular
13 product highlights a host of things. Mostly it is a
14 passive way of acquiring statistics for all of the
15 stream gauges across the United States.

16 Of note for the drought portion of the
17 WaterWatch -- there's flood portions, drought
18 portions. The drought portion, you can come up with
19 drought tables, which will provide rankings, which
20 can be used as to how they rank in comparison to
21 other years. You can compare 7-day or 28-day or
22 annual. It also -- another neat product is the
23 duration under drought, which will -- it's brief
24 pictorial stuff anyway to the presentations and so
25 forth. Any of your U.S. Geological survey offices

1 in your respective states can answer questions about
2 WaterWatch. And that concludes my report.

3 MR. BARFIELD: Are there any questions for
4 Jason?

5 (Pause.)

6 MR. BARFIELD: Okay. I just note for the
7 record he provided us some handouts of a PowerPoint
8 he might have presented, if we had our technology
9 ready to go. It provides graphs for the various
10 areas that he referenced and long-term annual
11 quantities. It shows the trends in those gauges
12 over time typically down. So -- and I think this
13 will be a part of the record of this year's annual
14 meeting. So appreciate that report, Jason.

15 That concludes our federal reports. Next
16 we'll go to committee reports. And first, the
17 engineering committee. And I will turn to Scott
18 Ross as the chair of this year's engineering
19 committee. And lead us through your report.

20 MR. ROSS: Chairman, if you could let me
21 borrow your work copy. I seem to have had my
22 revised copy taken. There we go. Thank you. This
23 year's engineering committee met a number of times
24 this late summer and fall. We were able to go
25 through and work on the assignments that were given

1 to us at the last Compact meeting.

2 The information that -- the data exchange was
3 made. Colorado -- excuse me -- Kansas/Nebraska
4 completed their exchange of information on April
5 15th, 2012. We were able to finalize information
6 from Colorado in late September. And the final data
7 exchanges were completed and the model runs were
8 made October 4th, 2012. These data sets include
9 stream flow, pump data, diversion records, reservoir
10 evaporation records from all three states.

11 Continuing efforts to resolve concerns over varying
12 estimates of groundwater surface recharge. We've
13 discussed those -- that assignment of trying to
14 standardize that. And we have a recommendation if
15 we continue that in the future.

16 We retained Principia Mathematica to perform
17 2012 -- maintain the model and run the model. Each
18 state separately contracts with Principia
19 Mathematica for 2012, and we will continue that
20 discussion for next year. Continued development of
21 the five-year Kansas spreadsheet. Nebraska provided
22 the initial spreadsheets. Kansas reviewed that
23 document and offered some discussions. But we have
24 not made any further progress on that matter this
25 year. We will ask that that remain one of our

1 assignments. Continue to review Colorado's
2 augmentation proposal. This wasn't really an
3 engineering committee assignment. It was a separate
4 negotiation committee. We're working on that. So
5 that wasn't part of the normal EC responsibility.
6 Continue to work to finalize the 2006 and 2010
7 accounting. Issues preventing the states from
8 agreeing on the accounting have you discussed, and
9 the primary issue is pending before the Supreme
10 Court at present.

11 Continue the discussion of the procedure to
12 account for the stream flow segment between Guide
13 Rock and the diversion dam at Guide Rock. We've
14 noted that Willow Creek provides some info between
15 the diversion dam and Guide Rock. We've had some
16 discussion, and Nebraska has provided us with some
17 information on the cost of measurement. The
18 committee yesterday recommended that we continue
19 that discussion and provide them with a
20 recommendation at the next meeting.

21 We discussed the Bonny area -- Bonny
22 Reservoir capacity tables. Kansas proposed to adopt
23 those -- provide capacity tables for the 2011 data
24 onward. Colorado would like us to consider applying
25 those retroactively for 2007 -- or from 2007.

1 Commissioner directed us to continue that discussion
2 and attempt to provide them with recommendations at
3 the next meeting.

4 Continued to discuss accounting changes that
5 may be needed for surface water diversions for the
6 purpose of recharging groundwater. That assignment
7 was given to the engineering committee pursuant to
8 thoughts that the Frenchman-Cambridge Irrigation
9 District and perhaps others would use their
10 accounting systems to recharge the project. That
11 hasn't occurred yet. So we will continue working on
12 that -- or recommend that the commission give us
13 that assignment.

14 Discussed the framework for the application
15 of approval of future augmentation plans. Kansas
16 initiated a list of questions that are under
17 discussion at the moment. We would recommend that
18 assignment be continued. We worked through the --
19 what's known as the attachment to the Engineering
20 Committee Report as Exhibit A. It's procedures for
21 filling in the missing precipitation data needed for
22 the model. We have a 2011 report that's been signed
23 by our modeling people recommending methodology for
24 adopting that, with some changes in the data set for
25 2011. We expected to produce an addendum to that

1 Exhibit A report at the next meeting.

2 We need to continue to have a discussion on
3 archiving the data materials from the Conservation
4 Committee. The committee finished their work -- or
5 has finished it with some minor cleanup and has
6 asked that we consider opportunities to store and
7 archive the data. We've been instructed to continue
8 that discussion at the next meeting.

9 We have an amendment to the RRCA rules.
10 There were some discrepancies yesterday that were
11 located, some typographical errors. We need to have
12 those corrected and have those approved for next
13 meeting as an attachment to this report.

14 So the recommended assignments we have for
15 next year are to exchange data by April 15th as per
16 the FSS; evaluate standardized estimate --
17 standardized estimates of groundwater and surface
18 water irrigation; continue to review Principia
19 Mathematica's contract and provide a recommendation
20 to the committee -- to the commission; continue our
21 efforts to finalize 2006 to 2010 accounting;
22 continue discussion of the issues preventing
23 agreement on a final accounting; development of
24 recommendation of whether or not to account for
25 inflows from Willow Creek between the Guide Rock

1 Diversion Dam and the newly relocated gauge; discuss
2 any accounting changes that may be needed for
3 surface water diversions and for the purpose of
4 recharging groundwater; discuss developing an
5 application approval process for future augmentation
6 plans; finalize the procedure for -- as described in
7 Exhibit A of this report and adopt the item that we
8 need; finalize work on users manual for the RRCA
9 accounting principles and provide a recommendation
10 to the administration for adoption; and continue
11 work on a five-year accounting spreadsheet.

12 And that concludes my report. We will not be
13 asking the -- for the adoption of this report as one
14 of our members is not with us, and like an
15 opportunity to do that.

16 MR. BARFIELD: Comments or questions by the
17 other states?

18 (Pause.)

19 MR. BARFIELD: I've got a couple. Scott, on
20 the items, you mentioned finalizing accounting 2006
21 to 2010. Should we make that 2011 now?

22 MR. ROSS: Yes.

23 MR. BARFIELD: So we should sort of adjust
24 the assignments to reflect another year added to the
25 list. And the second, maybe, question is just to

1 make sure I heard you right. Or maybe Mr. Dunnigan
2 can answer this. On number -- related to surface
3 diversions for recharging groundwater, I think you
4 mentioned the state's working on that potential
5 proposal of doing that. I wasn't clear from Scott's
6 report if that had not occurred or the assignment to
7 the engineering committee had not occurred. Have
8 you done any recharge of that nature that you
9 discussed a year ago?

10 MR. SCHNEIDER: We did have a project with
11 the Frenchman Valley Irrigation District in the
12 spring of 2012. It lasted about a month.

13 MR. BARFIELD: So they did do some recharge?
14 They diverted into the canal, but -- essentially let
15 it recharge through the canal?

16 MR. SCHNEIDER: Right.

17 MR. BARFIELD: What kind of quantities were
18 involved in that operation?

19 MR. SCHNEIDER: I don't have that information
20 available right now.

21 MR. BARFIELD: So that was an operation that
22 was done, but no particular accounting will be done
23 in terms of the Compact's accounting? Or is that
24 what this assignment is about, to figure out how to
25 do that?

1 MR. SCHNEIDER: I believe that's what the
2 assignment is about.

3 MR. BARFIELD: All right. Thank you. So
4 obviously we need some more work on the report. The
5 report is usually the vehicle by which we make our
6 assignments to you all. So I guess we'll discuss
7 that issue when we come to Agenda Item 9-A. Okay.
8 So is that all we have on the engineering committee?

9 (Pause.)

10 MR. BARFIELD: Apparently so. So with that
11 we'll move to Agenda Item 7-B, the report of the
12 conservation committee, Scott Guenthner. I presume
13 you will be providing that report?

14 MR. GUENTHNER: Good morning. I'm Scott
15 Guenthner. I'm with the Bureau of Reclamation.
16 today I'm presenting the report on behalf of the
17 conservation committee. Each of the states have a
18 representative on the conservation committee, so
19 most of this -- or all of this information I will be
20 presenting today had input from your staffs.

21 As you recall, the conservation study is an
22 element of the final settlement stipulation. And
23 the conservation committee developed a plan of study
24 in 2004, and you approved that study plan.
25 Subsequent to that, each year we provided annual

1 status reports. We've provided so far five annual
2 status reports. And last year we provided a report
3 of preliminary findings.

4 We haven't done any additional modeling.
5 Most of the study has to do with water balance
6 modeling for these small non-federal reservoirs and
7 land terraces. We haven't done any modeling in the
8 last year, except to clean up and to verify the
9 stuff we have provided to you last year.

10 What we've done in this past year, we've
11 provided -- we've developed a final report. Right
12 now we would consider this report still a draft
13 version. The substance of the report will not
14 change, but there's some cleanup, editorial type of
15 work that needs to happen.

16 We provided you a copy of the -- of the final
17 report yesterday at the work session. The report
18 isn't available to the public yet, pending some of
19 the cleanup stuff I just mentioned. What we have
20 also developed is a fact sheet. It's a one-page
21 sheet that really tells why the study was done, what
22 we looked at. It sort of is the summary of the
23 final report in layman's terms. The final report is
24 pretty detailed. This is pretty generic.

25 I might just mention a couple things that we

1 learned. Really what we learned, some of the stuff
2 was suspected. Some of the information is new.
3 When it comes to the nonfederal reservoirs in the
4 eastern part of the basin, they really retain about
5 70 percent of the runoff that occurs in those
6 watersheds above the reservoir. In the western part
7 of the basin they generally retain all of the runoff
8 into them. About 70 percent of that runoff then
9 goes to seepage, which eventually ends up as a
10 recharge to the aquifer.

11 For the land terraces, about 80 to 90 percent
12 of the runoff above the drainage area into these
13 terraces is captured by the terrace. About
14 60 percent goes to recharge. About 40 percent of
15 that retained runoff goes to increase
16 evapotranspiration. So when you look at all of the
17 nonfederal reservoirs and all of the terraces in the
18 basin and roll that up into one number, all of the
19 sub basins that go into the Republican, about --
20 there's an additional 36,000 acre-foot of
21 evapotranspiration occurs as a result of those
22 conservation measures. About 88,000 acre-foot ends
23 up as a recharge under those facilities. So that
24 recharge occurs higher up in the basin than it would
25 have had those facilities not been in place.

1 So when you roll that up, this increased
2 evapotranspiration and increased recharge is about
3 125,000 acre-foot for all of these nonfederal
4 reservoirs and terraces in the basin. That's about
5 equivalent to -- or excuse me -- the same magnitude
6 as the inflow to Harlan County Lake. We have some
7 additional fact sheets available for the audience if
8 they would like some. I have set out back in the
9 entryway. And if you would like a copy, you could
10 pick one up.

11 One last thing I would mention is that we'll
12 attempt to finalize this report within the next
13 month. And it will be available on some websites.
14 And those are identified on this fact sheet. That
15 concludes my report.

16 MR. BARFIELD: All right. Any questions for
17 Scott?

18 (Pause.)

19 MR. BARFIELD: We appreciate the Bureau and
20 the committee's report. It's been quite a project
21 to do. I think it's -- appreciate your filling that
22 requirement and commitment in the FSS. And your
23 study results are quite interesting. There's a
24 significant recharge occurs from those projects. So
25 thank you very much.

1 MR. GUENTHNER: Thank you.

2 MR. BARFIELD: Okay. We're moving along very
3 well then. This is sort of a point where we
4 traditionally take a break, and I'm going to go
5 ahead ask that we do that. We have quite a bit of
6 donuts and cinnamon rolls and such that we need your
7 help with. So I think a 15-minute break now, it
8 that's okay. And then we'll come back and push
9 through the rest of our agenda.

10 (A recess was taken from 9:04 a.m. until
11 9:26 a.m., after which the following proceedings
12 were had.)

13 MR. BARFIELD: Okay. Well, thank you very
14 much. I trust you provided -- that you all did your
15 parts. If not, you can take one on the way out. So
16 we'll go ahead and reconvene the meeting of the
17 Administration and continue with our -- on our
18 agenda. We had completed Agenda Item 7-B.

19 The next item is Agenda Item 8, which is old
20 business. 8-A is status of unapproved previous
21 accounting. And I think this is just a carry-over
22 for previous agendas. And we've discussed this to a
23 certain extent, I believe, in discussing the
24 engineering committee reports and assignments. And
25 I believe the status is we're still working through

1 the issues related to those accountings and have it
2 on the engineering committee assignments to continue
3 that work.

4 Is that a good enough summary of where we're
5 at there? Some of the issues are pending;
6 additional time to review, data exchange. Some of
7 them are pending outcomes of the litigation. That
8 was also an issue that goes back to '06, I believe.
9 So that's -- I think that's all we need to say about
10 that. Is that correct?

11 MR. DUNNIGAN: Yeah.

12 MR. BARFIELD: Okay. With that we'll go
13 ahead and go to new business. Agenda Item 9 and
14 assignments. And the first one is discussion of the
15 engineering committee report and assignments. I
16 guess in view of the fact that we're not going to --
17 we don't have a final engineering committee report
18 today, we do plan to hold a special meeting in the
19 coming relatively short period of time, as soon as
20 we are ready for action on some of these other
21 items. And so hopefully the engineering committee
22 report can be finalized at that time and the
23 assignments cleared. But I think the engineering
24 committee has plenty on its plate and knows what it
25 should be doing. I think you mentioned there may be

1 something that was...

2 MR. WOLFE: Yes, if I could, Chairman. Thank
3 you. I apologize for not bringing this up earlier
4 when we were talking about it. Even though it's
5 included in agenda item -- or the committee report,
6 Item 10-C, I think the -- that item should also be
7 reflected in the recommended assignments by the
8 engineering committee. It's -- maybe we can make a
9 list of 12 items instead of 11. If we could just
10 have that reflected in that list as well.

11 MR. BARFIELD: Okay. So you're saying that
12 the -- dealing with the revised of the Bonny
13 Reservoir area capacity table is not reflected in
14 our list of the recommended assignments?

15 MR. WOLFE: Correct. I think he notes what's
16 in 10-C. I think he recognize they probably
17 wouldn't accomplish that. I think just for clarity,
18 if it was just an item in the itemized list under
19 recommended assignments, I think just for
20 completeness we would ask that that be also
21 reflected in that itemized list.

22 MR. BARFIELD: Okay. Is that good with
23 Nebraska?

24 MR. DUNNIGAN: Yes.

25 MR. BARFIELD: So the final work order to the

1 committee will reflect that additional assignment.
2 Hopefully there will be a day when we start checking
3 things off so the list doesn't just continually get
4 larger and larger. Okay. Excuse me. That would
5 bring us into new business, Item 9-B, Nebraska's
6 proposed plan for reduction of computed beneficial
7 consumptive uses. I guess, Mr. Dunnigan, I'll let
8 you lead us through this.

9 MR. DUNNIGAN: Thank you, Chairman Barfield.
10 On July 30th of this year we submitted an
11 alternative water-short year plan for consideration
12 and approval by the Republican River Compact
13 Administration. We certainly feel that the plan
14 that we submitted conforms with the requirements of
15 Appendix M. We certainly took a bit of time
16 yesterday to discuss those requirements and had some
17 discussion on Appendix M. I would also note for the
18 record that on October 4th we did receive a letter
19 from Commissioner Barfield commenting on our
20 water-short year plan and -- with the conclusion
21 that Kansas could not approve this plan.

22 In our discussion of Appendix M it seems like
23 there is some confusion or some interpretation
24 differences with the language of Appendix M. And
25 specifically we did talk about Item 2 in Appendix M,

1 which states that, "Each plan shall indicate the
2 actions which Nebraska would undertake to reduce
3 it's computed beneficial consumptive uses from the
4 base condition and the amount of reduction expected
5 from those actions."

6 Again, we feel that we have addressed that in
7 our plan and we are going to offer a resolution for
8 consideration of the RRCA. And I will have Jim
9 Schneider read that resolution into the record.

10 MR. SCHNEIDER: "Resolution of the Republican
11 River Compact Administration. Nebraska's
12 Alternative Water-Short Year Administration Plan.
13 Whereas, the states of Kansas and Nebraska and
14 Colorado entered into a Final Settlement Stipulation
15 or FSS as of December 15, 2002, to resolve pending
16 litigation in the United States Supreme Court
17 regarding the Republican River Compact, or Compact,
18 in Nebraska -- in Kansas v. Nebraska and Colorado,
19 No. 126 Original;

20 "Whereas the FSS was approved by the United
21 States Supreme Court on May 19th, 2003;

22 "Whereas, by letter dated July 30, 2012, the
23 State of Nebraska submitted to the State of Kansas
24 and the State of Colorado a copy of the "State of
25 Nebraska's Plan for Reduction of Computed Beneficial

1 Consumptive Uses under Alternative Water-Short Year
2 Administration Plan," or Water-Short Year
3 Administration Plan;

4 "Whereas Nebraska has previously provided the
5 State of Kansas and the State of Colorado RRCA
6 Groundwater Modeling results indicating expected
7 CBCU reductions resulting from Nebraska's actions
8 during Compact Call years;

9 "Whereas, Nebraska's Water-Short Year
10 Administration Plan has been properly presented and
11 submitted to the Republican River Compact
12 Administration pursuant to Appendix M of the FSS;

13 "Whereas, on September 14th, 2012, the State
14 of Nebraska provided the State of Kansas and the
15 State of Colorado notice that if its Water-Short
16 Year Administration Plan were not approved by the
17 RRCA that Nebraska may --"

18 (Microphone malfunction.)

19 MR. SCHNEIDER: I'll start that one over.

20 "Whereas on September 14, 2012, the State of
21 Nebraska provided the State of Kansas and the State
22 of Colorado notice that if its Water-Short Year
23 Administration Plan were not approved by the RRCA,
24 that Nebraska may pursue fast-track resolution of
25 the issue;

1 "Whereas, on October 3rd, 2012, the State of
2 Nebraska was provided notice by the United States
3 Bureau of Reclamation that the potential for
4 Water-Short Year Administration exists in 2013;

5 "Whereas, no methodology exists in the RRCA
6 Accounting Procedures and Reporting Requirements to
7 determine necessary reductions in Computed
8 Beneficial Consumptive Use or CBCU for the upcoming
9 year, and (defined as the current year in Table 5D
10 of the RRCA Accounting Procedures and Reporting
11 Requirements) prior to August 1 of the current year,
12 (defined as year equals -1 in Table 5D of the RRCA
13 Accounting Procedures and Reporting Requirements);

14 "Whereas, Nebraska has developed a
15 methodology to determine the necessary reductions in
16 CBCU by December 31st for the upcoming year
17 (provided with Nebraska's Water-Short Year
18 Administration Plan), following the determination of
19 the necessary reductions, Nebraska will then
20 determine the actions from those indicated within
21 the Water-Short Year Administration Plan that it
22 will utilize to produce such reductions, and these
23 actions and their respective reductions in CBCU will
24 be provided to the RRCA prior to April 1 of the year
25 in which the Water-Short Year Administration Plan is

1 implemented;

2 Whereas, the states agree that the expected
3 reductions in CBCU implemented through Nebraska's
4 Water-Short Year Administration Plan shall be
5 evaluated by the Republican River Compact
6 Administration using methods consistent with the
7 RRCA Accounting Procedures and the RRCA Groundwater
8 Model;

9 "Whereas, the states agree that Nebraska's
10 proposed Water-Short Year Plan Administration
11 performs the requirements set forth in Appendix M of
12 the FSS and that the RRCA should adopt Nebraska's
13 proposed Water-Short Year Administration Plan;

14 "Now, therefore, it is hereby resolved that
15 the RRCA approves and adopts the 'State of
16 Nebraska's Plan for Reduction of Computed Beneficial
17 Consumptive Uses under Alternative Water-Short Year
18 Administration.'"

19 MR. DUNNIGAN: At this time I would make a
20 motion for the RRCA to approve and adopt the State
21 of Nebraska's Plan for the Reduction of Computed
22 Beneficial Consumptive Uses under Alternative
23 Water-Short Year Administration.

24 MR. WOLFE: Second.

25 MR. BARFIELD: Okay. Via this resolution,

1 right? We're approving the plan via this
2 resolution?

3 MR. DUNNIGAN: Yes.

4 MR. BARFIELD: All right. So we have a
5 motion and a second. Is there any discussion? Go
6 ahead.

7 MR. WOLFE: I'd maybe just like to comment on
8 -- just in a broader perspective in regards to the
9 efforts of this commission. And I know we had some
10 discussion about this yesterday. And I appreciate
11 Nebraska's efforts for Compact compliance, because
12 we certainly appreciate the efforts it takes to get
13 into Compact compliance and fully understand and
14 appreciate their desire to get this approved.

15 And being an administrator and in business
16 for over 20 years I know it's difficult. We have a
17 very active administration in Colorado and recognize
18 that there's no perfect plan. But I don't think
19 perfection should be the enemy of good. I think we
20 need to move from an area of this litigation we've
21 been in to an area of cooperation. And I think this
22 is an effort that Nebraska is trying to push
23 forward. And I encourage this body to really
24 embrace trying to move forward in a cooperative
25 manner and working cooperatively on these type of

1 issues and not trying to automatically default in a
2 litigation mode or in a dispute-resolution-type
3 mode.

4 I think Nebraska has earnestly put forward a
5 good faith effort in the spirit of Appendix M to get
6 this approved, and we support them their efforts to
7 do that. And I encourage Kansas and all three
8 states to really put effort forward in the next
9 short period of time here to try to move these type
10 of things forward. I think it's in the best
11 interest of all the states to do that. Thank you.

12 MR. BARFIELD: Okay. Well, obviously I will
13 have some comments as well; and certainly recognize
14 Nebraska's efforts, as you reported, to reduce it's
15 use and to get itself in a position where it can --
16 can, you know, be in compliance in all periods. But
17 with respect to this specific action that you've
18 requested we take -- and let me back up.

19 Certainly Kansas wishes to cooperate and --
20 with the states in terms of the Administration
21 Compact in these matters. But obviously we have a
22 specific plan that has been put forward pursuant to
23 a specific piece of the Final Settlement Stipulation
24 that has -- that prescribes basically how the
25 process is to work through and describes what the

1 plan should include and so forth. And so that's --
2 this was the first time that this Appendix M
3 provision has been brought forward and even
4 discussed by the RRCA.

5 Nebraska chose to submit this on July 30th,
6 just as the states were going to trial. And the
7 State of Kansas has, you know, taken -- taken
8 significant time from our heavy demands in
9 litigation to look at this appendix and seek out
10 it's meaning and to review Nebraska's plan in terms
11 of how it fits with those requirements. Again, our
12 finding in reviewing this is that it does not
13 conform to the requirements set forth in Appendix M.

14 And as Commissioner Dunnigan noted, my
15 October 4 letter provided sort of a -- the details
16 in terms of why and how we believe it does not
17 conform to those requirements. So obviously that
18 letter in here -- I would state that the Kansas is
19 certainly interested and willing to continue to work
20 with the State of Nebraska as it desires to have an
21 Alternative Water-Short Year Plan that can be
22 approved pursuant to Appendix M and -- and the --
23 the proactive action on the part of the State of
24 Nebraska that that would entail and the -- the
25 alternative way of measuring water-short year

1 compliance that is also part of Appendix M.

2 So, you know, I believe we can and should
3 work cooperatively. And there's a way that a plan,
4 if it could be put forward, to provide Nebraska and
5 really Kansas with a -- with the benefits that
6 Appendix M provides; again, a proactive plan for
7 reducing its use in exchange for a modified
8 alternative water-short year test. So I received
9 this resolution just this morning before we got on
10 stage. And I'm -- I'm still prepared, despite that
11 I think, to act -- act on it this morning, if the
12 state wishes -- State of Nebraska wishes us to have
13 that vote. So I guess those are my comments. Any
14 additional comments? Commissioner Dunnigan.

15 MR. DUNNIGAN: Mr. Schneider.

16 MR. SCHNEIDER: Thank you. Unfortunately
17 we've -- you're pledging your cooperation in working
18 with us, but we've heard that before, Mr. Barfield.
19 And your actions have shown otherwise; just like
20 your action to reject this plan before we even had a
21 chance to discuss it. So pledges of cooperation are
22 -- are fairly hollow in light of those actions.

23 I would also note that this plan does contain
24 a specific action, the curtailment of groundwater
25 uses as necessary. And that's exactly what the

1 litigation was about. So we don't see how this all
2 fits together with what you're saying in terms of
3 wanting to work with us, but simply rejecting out of
4 hand; and in particular, when we're dealing with a
5 potential action that you yourself have been
6 advocating.

7 MR. BARFIELD: All right. Thank you. Again,
8 the letter provided our -- an opportunity for us to
9 sort of explain our view of what -- what's necessary
10 in this. I believe that the State of Nebraska's
11 plan, as we said, does not conform to the
12 requirements of Appendix M. And I believe a plan
13 could be put forward that would.

14 Again, as we said, we believe that there
15 needs to be a -- you know, that "indicate" means we
16 need to know here are the specific actions that are
17 going to be taken under the plan and this is the
18 specific yield that will come from that plan and,
19 you know, the corresponding documentation, so that
20 the RRCA can do, apparent to the Appendix, it's
21 review and agree with Nebraska's plan in the
22 projected savings. And then -- then in the
23 subsequent year, that Nebraska can implement what we
24 all know it committed to do.

25 So again, all of that is in the letter. I

1 believe Appendix M is clear and workable, and we'll
2 -- I guess I would just reiterate we're willing to
3 continue to work with you to figure out how to use
4 this tool.

5 MR. DUNNIGAN: And I would add just one more
6 comment. I, too, believe that Appendix M is clear.
7 And we would not have put forth a plan that we did
8 not feel conformed with the intent and letter of
9 Appendix M.

10 MR. BARFIELD: All right. Other discussion?
11 (Pause.)

12 MR. BARFIELD: Okay. There's been a motion
13 and a second to adopt the resolution, and in doing
14 so to approve Nebraska's plan. I guess I would ask
15 for a vote. Mr. Wolfe?

16 MR. WOLFE: Yes.

17 MR. BARFIELD: Mr. Dunnigan?

18 MR. DUNNIGAN: Yes.

19 MR. BARFIELD: Kansas votes no for the
20 reasons that we've discussed this morning that are
21 in my letter of October 4. But again, I hope with
22 continued dialogue we can find a way to move
23 forward.

24 MR. DUNNIGAN: Chairman Barfield?

25 MR. BARFIELD: Yes.

1 MR. DUNNIGAN: I would ask that the
2 resolution be attached to the transcript of the RRCA
3 report, if that's okay.

4 MR. BARFIELD: Certainly.

5 MR. DUNNIGAN: Thank you.

6 MR. BARFIELD: As well as the October 4th
7 letter on this as well.

8 MR. DUNNIGAN: Thank you.

9 MR. BARFIELD: Okay. Okay. If there's
10 nothing more there we will move on to Agenda Item
11 9-C. And if you want to take them individually, you
12 can. Or if you want to combine 9-C and 9-D, it's up
13 -- as you wish.

14 MR. WOLFE: Thank you, Chairman. And I will
15 be brief on this, and I hope to take those in
16 combination. We did have some discussion yesterday
17 at the workshop in regard to these items. Widely
18 represented, I guess, is two separate items there in
19 terms of resolutions; kind of stems out of the
20 history of this when we first brought forward to the
21 RRCA back in 2009 a proposed resolution for the
22 Compact Compliance Pipeline and was acted upon a
23 couple of times in 2009.

24 And what was also drafted up and not acted
25 upon at that time was components regarding the South

1 Fork and the Bonny Reservoir operations, which we
2 talked about in detail yesterday. And since there
3 was no formal action specific to that resolution
4 before, we've been just -- for I guess discussion
5 purposes, just kind of carrying along two types of
6 -- or two separate resolutions just to represent the
7 various components of Colorado's overall
8 augmentation plan proposal.

9 Our goal is certainly to have a complete
10 basin-wide resolution that deals with our
11 augmentation proposal and planned operations into
12 the future. And we'll continue to move forward with
13 that goal and hope to move towards a special meeting
14 by the RRCA here in the very near future as we
15 complete our discussions with Nebraska and Kansas on
16 these specific resolutions and their -- their
17 components. And we're going to continue working
18 with the water users in the basin in the Republican
19 River Water Conservation District.

20 As they know, we've been working in earnest
21 in discussions with -- particularly with Kansas on
22 these particular issues. And we have our -- they
23 have our full commitment -- Colorado's commitment to
24 go -- once we feel like we're at a point of a
25 proposed resolution that meets the requirements of

1 both -- or all three states, we will seek approval
2 by the district or -- and the water users in the
3 basin out there prior to bringing that final
4 approval by the RRCA. And that's all I have to
5 present, unless there's any questions on that.

6 MR. BARFIELD: Any questions?

7 (Pause.)

8 MR. BARFIELD: Okay. Thank you for that
9 report. And as noted, the states will continue to
10 work with the State of Colorado on both their
11 augmentation plan proposal and all the various
12 elements, as well as seeking to determine how to
13 model Bonny and the South Fork appropriately in
14 light of the changed operations there at Bonny. So
15 appreciate that.

16 MR. WOLFE: Thank you.

17 MR. BARFIELD: So that was Agenda Items 9-C
18 and 9-D. 9-E was sort of a -- put on the agenda as
19 an opportunity to consider, if necessary, maybe an
20 alternative to Nebraska's -- or I'm sorry --
21 Colorado's proposal on account of the Bonny. We put
22 this together -- this agenda together at a point in
23 time where we thought certain resolutions might come
24 to fruition at this meeting, which are not the case.

25 On this particular item, there's nothing that

1 Kansas wishes to put forward at this time. Our
2 desire is to continue to work with the State of
3 Colorado on this issue and this issue of --
4 augmentation plan issues hopefully in a complete
5 package. So that is all I have on that item.
6 Agenda Item 9-F, just to provide -- which is the
7 proposal for a common set of procedures and recharge
8 values by system type for estimating groundwater
9 irrigation recharge in the RRCA groundwater model.

10 The -- when the states developed the
11 settlement in 2002 and 2003, a groundwater model was
12 a piece of that jointly-developed solution. And it
13 included -- the state's did their best to bring the
14 best data and methodologies for purposes of building
15 a groundwater model, and also made commitments to
16 the board to improve their data moving forward; for
17 example, meeting more intensively and the like.
18 There was also a commitment to look at groundwater
19 irrigation recharge methodologies.

20 The methodologies that were used in
21 developing the model were not the same between
22 states. And there was a commitment to try and seek
23 a -- going forward a common way to determine
24 groundwater irrigation recharge. Kansas has sort of
25 brought this subject up in 2004 and since, and we

1 have not been able to make much progress. And so I
2 was hoping to have a proposal for consideration
3 here. That has not occurred.

4 I, yesterday at the work session, notified
5 the other states that we are planning on sort of
6 developing a scope of work to -- to develop
7 hopefully a common set of procedures and recharge
8 values that we can put before the RRCA for it's
9 consideration. And we'll be notifying the other
10 states of that plan and seeking to invite them into
11 that process. So that's, I guess, the status of the
12 matter on 9-F. Anything?

13 (Pause.)

14 MR. BARFIELD: Okay. Finally -- well,
15 finally under 9-G -- and it's, again, Kansas'
16 proposal for accounting and modeling of augmentation
17 flows. And again, we actually have no specific
18 proposal at this time. As Scott noted in the
19 engineering committee report at last year's meeting,
20 Nebraska requested that the EC discuss developing a
21 framework for application and approval of processes
22 for future augmentation plans.

23 Obviously this is timely, as I understand
24 Nebraska is completing or near completion of an
25 augmentation project on the Rock Creek Basin in the

1 upper part of the basin in Nebraska. I asked about
2 that specifically yesterday and was told that's, in
3 essence, complete. You know, the FSS has an
4 expectation that augmentation plans will be brought
5 before the RRCA and approved prior to
6 implementation. So this is sort of in conjunction
7 with that, what needs to be in that plan and so
8 forth.

9 So Kansas, in the context of the engineering
10 committee, has offered some starting points, I
11 think, for that discussion and questions on the Rock
12 Creek Project. And we'll look forward to continuing
13 to work with Nebraska on that topic as we move
14 forward. So nothing specific today. It's a work
15 task that I think we are obligated to continue to
16 consider moving forward. Okay. I guess that
17 concludes that item. Is there any other new
18 business to be considered here?

19 (Pause.)

20 MR. WOLFE: No.

21 MR. BARFIELD: Okay. There's an agenda item
22 for remarks from the public. We have a microphone
23 in front. Or if there is anybody here that would
24 like to make a statement for the RRCA's
25 consideration, we have some time here this morning.

1 All right.

2 MR. CORYELL: Yes. I'm Dennis Coryell with
3 the Republican River Water Conservation District in
4 Colorado. Several things that I would like to
5 reiterate or emphasize that have been mentioned by
6 Commissioner Wolfe. I would just urge the Compact
7 Administration committee to reach agreement on the
8 accounting for the sub basin of the South Fork in
9 light of the fact that Bonny Reservoir has been
10 drained.

11 It -- it appears to me that we need to keep
12 moving in a positive direction. That was a very
13 painful thing for folks in not only eastern
14 Colorado, but southwest Nebraska and northwest
15 Kansas. But -- and we don't have many tools to work
16 with in Colorado. And unfortunately that was one of
17 the components that was absolutely necessary to
18 solve that sub basin impairment issue.

19 Second thing I wanted to mention was our
20 pipeline is complete. We're currently in the
21 process of testing the SCADA system so that we can
22 monitor the operations of the pipeline. We're ready
23 to punch the button and deliver water. So I would
24 likewise urge this Compact Administration to approve
25 the accounting for the inflows to the North Fork of

1 the Republican River and allow Colorado to get into
2 compliance with that. We're anxiously waiting the
3 time that we can say we are in compliance.

4 Thirdly, I would like to mention our district
5 budget committee recently in a -- as we prepare for
6 our 2013 budget, has recommended to our board a
7 allocation of a million dollars each year for
8 conservation in the form of rebates of our use fees
9 within our basin. This would be based on actual
10 decrease of historical consumptive use.

11 We think that that's a -- a very good
12 incentive. We're going to work with NRCS, as well
13 as some of the efforts in the other states to
14 decrease the amount of water that we're using within
15 the basin, whether that's through use of
16 low-water-use crops, several other measures.
17 Anyway, we're committed to also slow the decline of
18 the Ogallala Aquifer. And that's been the next step
19 after we got the pipeline built; and hopefully be
20 able to get into compliance and really work on the
21 conservation of the aquifer.

22 So my -- my urgency would be this: If -- if
23 several hundred farmers and water users in our basin
24 in a matter of four years can put together a \$64
25 million dollar project, get it completed, then

1 surely the very competent water leaders of the three
2 states can come to an agreement so that we can
3 actually comply with what the law says. So I urge
4 you, please be committed to very soon reaching an
5 agreement on our issues. Thank you.

6 MR. BARFIELD: All right. Thank you,
7 Mr. Coryell. Appreciate those comments. I remember
8 well last year in Burlington and the crowd of people
9 that were quite -- quite unhappy about their action.
10 And we do appreciate the actions of the State of
11 Colorado and its efforts to get in compliance.

12 You know, we invested a lot of time in
13 looking at the -- sort of the suite of issues that
14 is there as we went through a comprehensive package
15 that's not just the North Fork, but also the South
16 Fork issues as well, certainly because this is -- as
17 Mr. Wolfe has indicated, the urgency of that. And
18 we'll give that -- give that some significant
19 attention in the coming weeks. Any other public
20 wish to speak?

21 (Pause.)

22 MR. BARFIELD: Okay. The next agenda item is
23 future meeting arrangements. We have not actually
24 -- I don't think we've made any specific
25 arrangements at this juncture. Mr. Dunnigan?

1 MR. DUNNIGAN: No.

2 MR. BARFIELD: I'm sorry. I would anticipate
3 that we would go back to our August schedule next
4 year. This year, for the public's benefit, we had
5 to move -- normally we meet in August of each summer
6 to provide us enough opportunity to complete all of
7 the assignments related to the accounting and
8 modeling and so forth. This year we were on trial
9 in August, so the commissioners decided to do this
10 later date. But I presume we'll go back to the
11 August 8th for our annual meeting. And we have not
12 decided on site. Typically Kansas has one meeting
13 and we host in the lower basin. And we'll go to the
14 upper basin for the other meetings. So we'll give
15 that some thought and let you know. Is there a
16 particular time in August you would like us to aim
17 for, or should we just maybe propose some dates in
18 an e-mail?

19 MR. WOLFE: I would suggest maybe circulating
20 some proposed dates, and we can look at our
21 respective calendars. And I guess on that note --
22 refresh my memory on this, because every time we
23 move into August we have to circulate letters saying
24 that we can do that.

25 MR. BARFIELD: Right.

1 MR. WOLFE: Because there's a requirement
2 that we do that prior to the end of June or -- I
3 think that's -- I can't remember the exact date.
4 But I'm just wondering. It seems like that we're
5 kind of in this mode of always having August --
6 should we as a commission -- commissioners be taking
7 some action to formalize this and making it
8 permanent somehow so we're not -- not that it's a
9 huge issue to circulate these letters every year to
10 extend that. But I'm just wondering if it's in our
11 best interest maybe to look at trying to change
12 whatever it is or approve whatever it is to make
13 that permanent.

14 MR. BARFIELD: That's a good comment. And
15 our rules specify -- and I don't have those in front
16 of me. But we should either amend our practice or
17 amend our rules.

18 MR. DUNNIGAN: I think it would be Rule 13
19 that we would be acting under.

20 MR. BARFIELD: And what date does it say?
21 The end of July or June?

22 MR. DUNNIGAN: I think it's the end of July.

23 MR. BARFIELD: So which do we want to amend?
24 We can do either. I think -- and maybe it's still
25 the case -- Colorado had a set of data that it was

1 depending upon to do the accounting that sort of
2 arrived later. Are you still using that data?

3 (Mr. Wolfe nodded.)

4 MR. BARFIELD: Okay. Yeah. I certainly
5 wouldn't oppose moving the practice -- again, a
6 reason to get the accounting of the majority is
7 possible to provide, you know, the states an
8 opportunity to sort of know where they're at. But,
9 you know, the April 15th exchange and preliminary
10 runs, we sort of already have that. So I'm not sure
11 that having the -- the meeting in August is a
12 problem. Certainly isn't in Kansas. Why don't we
13 ask the engineering committee -- we actually have
14 the rules that we were talking about anyway. I'm
15 sorry?

16 MR. DUNNIGAN: I would just want to be clear
17 that the actual rule with the date in it is Rule 9.
18 The procedure that we use would be Rule 13.

19 MR. BARFIELD: So can we ask the engineering
20 committee, because we're assembling some minor
21 modifications of those rules in any case, maybe pass
22 them to -- is the end of August maybe a better date?

23 MR. WOLFE: Either into August or provide
24 some flexibility in the language that, you know,
25 allows us to have it once a year and whatever

1 conditions are necessary. I'm fine with moving it
2 to the end of August, but maybe they need to come
3 back with some proposal of changing the date or some
4 other options that are suitable to the commission.
5 In the event that, like we had this year, and can do
6 it in October; we're going to be back in that same
7 mode again of circulating letters and doing that.
8 and just having that in mind, if there's some way we
9 can draft that language to give us as much
10 flexibility as possible in setting that meeting
11 date.

12 MR. BARFIELD: Well, we have the flexibility
13 to move it to any time we want it by a letter of
14 consensus. I think the rule is just to provide our
15 default position. I think August worked well. So
16 let's -- again, we'll let the engineering committee
17 provide us some recommendations. But I -- from my
18 standpoint, just moving the default to the end of
19 August, and then we can always adjust it further if
20 we need to for the individual year. So appreciate
21 that. But again, we'll get you some dates and we'll
22 pin down a location. But anticipating the second
23 week in August in Colby or something of that nature.
24 Okay. If there's nothing else to come before the
25 administration, I would move adjournment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. WOLFE: Second.

MR. BARFIELD: All in favor say aye.

MR. WOLFE: Aye.

MR. DUNNIGAN: Aye.

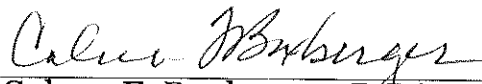
MR. BARFIELD: Aye. Thank you very much.

* * * CONCLUSION OF MEETING AT 10:08 A.M. * * *

C E R T I F I C A T E

I, Coleen F. Boxberger, Registered Professional Reporter, do hereby certify the above and foregoing proceeding was taken at the time and place as specified; that the same was taken before myself in shorthand and later transcribed and extended into typewritten form to the best of my ability, and is a true and correct extension hereof;

That I am not counsel nor relative of any of the parties or otherwise interested in the event or outcome of this matter.


Coleen F. Boxberger, R.P.R.
P.O. Box 184
Russell, KS 67665-0184